



## NATIONAL INDIAN GAMING COMMISSION

### Privacy Act of 1974; System of Records

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Notice of a New System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the National Indian Gaming Commission (NIGC) proposes to establish a new system of records entitled, “NIGC Reasonable Accommodations Records.” This system of records will include information that the NIGC collects and maintains on applicants for employment and employees who request and/or receive reasonable accommodations from NIGC for medical or religious reasons.

**DATES:** Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This new system is effective upon publication in the Federal Register, except for the routine uses, which are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit written comments by email to [privacy@nigc.gov](mailto:privacy@nigc.gov).

**FOR FURTHER INFORMATION CONTACT:** Tim Osumi, 202-264-0676, [tim.osumi@nigc.gov](mailto:tim.osumi@nigc.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, the National Indian Gaming Commission (NIGC) proposes to establish a new system of records titled, “NIGC Reasonable Accommodations Records.” This system of records covers NIGC’s collection and maintenance of records on applicants for employment, employees, and other individuals who participate in NIGC programs or activities who request or receive reasonable accommodations or other appropriate modifications from NIGC for medical or religious reasons. Title V of the Rehabilitation Act of 1973, as amended, prohibits discrimination in services and employment on the basis of disability, and Title VII of the Civil Rights Act of 1974 prohibits discrimination, including on the basis of religion. These prohibitions on discrimination require

Federal agencies to provide reasonable accommodations to individuals with disabilities and those with sincerely held religious beliefs unless doing so would impose an undue hardship on the agency. In some instances, individuals may request modifications to their workspace, schedule, duties, or other requirements for documented medical reasons that may not qualify as a disability but may necessitate an appropriate modification to workplace policies and practices. Reasonable accommodations may include, but are not limited to: Making existing facilities readily accessible to individuals with disabilities; restructuring jobs, modifying work schedules or places of work, and providing flexible scheduling for medical appointments or religious observance; acquiring or modifying equipment or examinations or training materials; providing qualified readers and interpreters, personal assistants, service animals; granting permission to wear religious dress, hairstyles, or facial hair or to observe a religious prohibition against wearing certain garments; considering requests for medical and religious exemptions to specific workplace requirements; and making other modifications to workplace policies and practices. NIGC's Human Resources Office processes requests for reasonable accommodations from employees and applicants for employment, respectively, who require an accommodation due to a medical or religious reason. NIGC's Human Resources Office also processes requests based on documented medical reasons that may not qualify as a disability but that necessitate an appropriate modification to workplace policies and practices. The request, documentation provided in support of the request, any evaluation conducted internally or by a third party under contract to NIGC, the decision regarding whether to grant or deny a request, and the details and conditions of the reasonable accommodation are all included in this system of records. NIGC has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under

the Privacy Act,’’ dated December 23, 2016. This system will be included in the NIGC inventory of record systems.

**SYSTEM NAME AND NUMBER:** NIGC Reasonable Accommodations Records.

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** Records are maintained primarily by the NIGC Human Resource Office located at 90 K Street, NE, Suite 200, Washington, DC 20002. Records may be located in locked cabinets and offices, on NIGC’s local area network, or in designated U.S. data centers for FedRAMP-authorized cloud service providers.

**SYSTEM MANAGER(S):** Human Resources Administrator, 90 K Street, NE, Suite 200, Washington, DC 20002.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion); 29 CFR 1614 (Federal Sector Equal Employment Opportunity); 29 CFR 1614 (Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act); 5 U.S.C. 302, 1103; Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000); and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

**PURPOSE(S) OF THE SYSTEM:** The purpose of this system of records is to allow NIGC to collect and maintain records on applicants for employment, employees, and other individuals who participate in NIGC programs or activities who request or receive reasonable accommodations or other appropriate modifications from NIGC for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests agency-wide to comply with applicable requirements in law and policy.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** Applicants for Federal employment, Federal employees, and visitors to Federal buildings who requested and/or received reasonable accommodations or other appropriate modifications from NIGC for medical or religious reasons. It also covers individuals or representatives (e.g., a family member or attorney) authorized to request reasonable accommodation on behalf of an applicant for employment or employee.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

- Requester's name;
- Requester's status (applicant or current employee);
- Date of request;
- Employee's position title, grade, series, step;
- Position title, grade, series, step of the position the requester is applying for;
- Requester's contact information (addresses, phone numbers, and email addresses);
- Description of the requester's medical condition or disability and any medical documentation provided in support of the request; Requester's statement of a sincerely held religious belief and any additional information provided concerning that religious belief and the need for an accommodation to exercise that belief;
- Description of the accommodation being requested;
- Description of previous requests for accommodation;
- Whether the request was made orally or in writing;
- Documentation by an NIGC official concerning whether the disability is obvious, and the accommodation is obvious and uncomplicated, whether medical documentation is required to evaluate the request, whether research is necessary regarding possible accommodations, and any extenuating circumstances that prevent the NIGC official from meeting the relevant timeframe;

- Whether the request for reasonable accommodation was granted or denied, and if denied the reason for the denial;
- The amount of time taken to process the request;
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
- Any reports or evaluations prepared in determining whether to grant or deny the request; and
- Any other information collected or developed in connection with the request for a reasonable accommodation.

**RECORD SOURCE CATEGORIES:** Information is obtained from the individuals who request and/or receive a reasonable accommodation or other appropriate modification from NIGC, directly or indirectly from an individual's medical provider or another medical professional who evaluates the request, directly or indirectly from an individual's religious or spiritual advisors or institutions, and from management officials.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING**

**CATEGORIES OF USERS AND PURPOSES OF SUCH USES:** In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NIGC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

(1) NIGC, or any component thereof;

(2) Any employee or former employee of NIGC in his or her official capacity;

(3) Any employee or former employee of NIGC in his or her capacity where the Department of Justice or NIGC has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the NIGC General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates it is relevant to a violation or potential violation of civil or criminal law or regulation.

c. To a member of Congress for the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.

d. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To appropriate agencies, entities, and persons when (1) NIGC suspects or has confirmed that there has been a breach of the system of records; (2) NIGC has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, NIGC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NIGC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

f. To another Federal agency or Federal entity, when NIGC determines that information from the system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems,

programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for NIGC when NIGC determines that it is necessary to accomplish an agency function related to this system of records.

Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NIGC employees.

h. To another federal agency or commission with responsibility for labor or employment relations or other issues, including equal employment opportunity and reasonable accommodation issues, when that agency or commission has jurisdiction over reasonable accommodation.

i. To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official who engages in investigation or settlement of a grievance, complaint, or appeal filed by an individual who requested a reasonable accommodation or other appropriate modification.

j. To another Federal agency, including but not limited to the Equal Employment Opportunity Commission and the Office of Special counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.

k. To a Federal agency or entity authorized to procure assistive technologies and services in response to a request for reasonable accommodation.

l. To first aid and safety personnel if the individual's medical condition requires emergency treatment.

m. To another Federal agency or oversight body charged with evaluating NIGC's compliance with the laws, regulations, and policies governing reasonable accommodation requests.

n. To another Federal agency pursuant to a written agreement with NIGC to provide services (such as medical evaluations), when necessary, in support of reasonable accommodation decisions.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** The records in this system of records are stored electronically on NIGC's local area network or with FedRAMP authorized cloud service providers segregated from non-government traffic and data, with access limited to a small number of personnel. In addition, paper records are stored in locked file cabinets in access-restricted offices.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** Records may be retrieved by name or other unique personal identifiers.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** Records in this system of records are maintained in accordance with GRS 2.3 and are destroyed three years after separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if requested for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** Strict controls have been imposed to minimize the risk of compromising the information that is stored. Access to the paper and electronic records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RECORD ACCESS PROCEDURES:** Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the National Indian Gaming Commission, FOIA Office, 1849 C Street, N.W., Mail Stop # 1621 Washington, D.C., 20240, ATTN: NIGC Privacy Officer; or by emailing [foia\\_requests@NIGC.gov](mailto:foia_requests@NIGC.gov). Individuals must furnish the following information for their records to be located: 1. Full name. 2. Signature. 3. The reason why the individual believes this system contains information about him/her. 4. The address to which the information should be sent. Individuals requesting access must also comply



with NIGC's Privacy Act regulations regarding verification of identity and access to records (25 CFR 515).

**CONTESTING RECORD PROCEDURES:** Individuals wishing to request amendment of records about them contained in this system of records may do so by writing to the National Indian Gaming Commission, FOIA Office, 1849 C Street, N.W., Mail Stop # 1621 Washington, D.C., 20240, ATTN: NIGC Privacy Officer; or by emailing foia\_request@nigc.gov. Requests for amendment of records should include the words "PRIVACY ACT AMENDMENT REQUEST" in capital letters at the top of the request letter or in the subject line of the email. Individuals must furnish the following information for their records to be located:

1. Full name.
2. Signature.
3. Precise identification of the information to be amended.

Individuals requesting amendment must also comply with NIGC's Privacy Act regulations regarding verification of identity and access to records (25 CFR 515) The agency procedures whereby an individual can be notified at his or her request how he or she can contest the content of any record pertaining to him or her in the system.

**NOTIFICATION PROCEDURES:** See "Record Access Procedures."

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** Any Privacy Act exemptions promulgated for the system.

**HISTORY:** None.

Dated: December 7, 2021.

E. Sequoyah Simermeyer,  
Chairman.

[FR Doc. 2021-26943 Filed: 12/13/2021 8:45 am; Publication Date: 12/14/2021]